

# COTTONWOOD HEIGHTS

## ORDINANCE No. 370

### AN ORDINANCE AMENDING CHAPTER 19.89 OF THE COTTONWOOD HEIGHTS CODE OF ORDINANCES REGARDING SHORT-TERM RENTALS

**WHEREAS**, the “Municipal Land Use, Development, and Management Act,” UTAH CODE ANN. §10-9a-101 *et seq.*, as amended (the “*Act*”), provides that each municipality may enact a land use ordinance and a zoning map establishing regulations for land use and development; and

**WHEREAS**, pursuant to the Act, the municipality’s planning commission shall prepare and recommend to the municipality’s legislative body, following a public hearing, a proposed land use ordinance and a zoning map, or amendments thereto, that represents the planning commission’s recommendations for zoning the area within the municipality; and

**WHEREAS**, the Act also provides certain procedures for the municipality’s legislative body to adopt or amend the land use ordinance and zoning map for the City; and

**WHEREAS**, on 14 July 2005, the legislative body (the “*Council*”) of the city of Cottonwood Heights (the “*City*”) enacted its Ordinance No. 25 adopting a land use ordinance for the City and codifying such ordinance as Title 19 of the City’s code of ordinances (the “*Code*”); and

**WHEREAS**, thereafter, the City’s planning commission (the “*Planning Commission*”) formulated proposed amendments (the “*Amendments*”) to Chapter 19.89 of the Code concerning short-term rentals in the City; and

**WHEREAS**, a public hearing was held before the Planning Commission where citizens were given the opportunity to provide written or oral comment concerning the proposed Amendments; and

**WHEREAS**, such public hearing before the Planning Commission was preceded by all required legal notices; and

**WHEREAS**, following the public hearing, the Planning Commission recommended the Amendments to the Council for adoption; and

**WHEREAS**, the Council subsequently took additional public comment concerning the Amendments; and

**WHEREAS**, the Council has reviewed and is familiar with the Amendments, a copy of which is annexed as an exhibit to this ordinance, including any amendments proposed by the Council to the form of the Amendments recommended for adoption by the Planning Commission, as authorized by UTAH CODE ANN. 10-9a-502(2); and

**WHEREAS**, on 19 October 2021, the Council met in regular meeting to consider, among other things, amending the Code to enact the Amendments, including any such revisions; and

WHEREAS, after careful consideration of the recommendations of the Planning Commission, comments at the public hearing and other public meetings, and other relevant input, the Council has determined that it is in the best interest of the health, safety and welfare of the citizens of the City to adopt and enact the Amendments as proposed;

NOW, THEREFORE, BE IT ORDAINED by the city council of the city of Cottonwood Heights as follows:

Section 1. Adoption of Amendments. The Council hereby adopts and enacts the Amendments in the form of the attached exhibit, wherein deletions to the current ordinance are ~~struck through~~ or otherwise shown as deletions and additions to the current ordinance are underlined or otherwise shown as additions.

Section 2. Action of Officers. All actions of the officers, agents and employees of the City that are in conformity with the purpose and intent of this ordinance (this "Ordinance"), whether taken before or after the adoption hereof, are hereby ratified, confirmed and approved.

Section 3. Severability. It is hereby declared that all parts of this Ordinance are severable, and if any section, paragraph, clause or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect the remaining sections, paragraphs, clauses or provisions of this Ordinance.

Section 4. Repealer. All ordinances or parts thereof in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

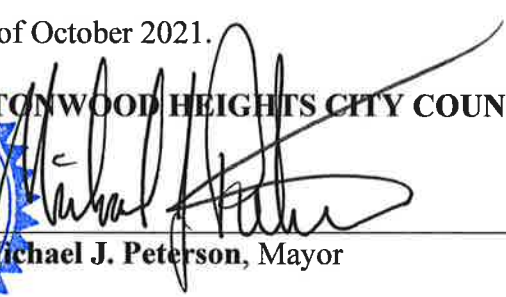
Section 5. Effective Date. This Ordinance, assigned no. 370, shall take immediate effect as soon as it shall be published or posted as required by law and deposited and recorded in the office of the City's Recorder, or such later date as may be required by Utah statute.

PASSED AND APPROVED this 19<sup>th</sup> day of October 2021.

ATTEST:

By:   
Paula Melgar, Recorder



By:   
Michael J. Peterson, Mayor

VOTING:

Michael J. Peterson	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Douglas Petersen	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Tali C. Bruce	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Christine Watson Mikell	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

DEPOSITED in the Recorder's office this 19<sup>th</sup> day of October 2021.

POSTED this 20 day of October 2021.

# EXHIBIT TO ORDINANCE NO. 370

## Chapter 19.89

### SHORT-TERM RENTALS

#### Sections:

- 19.89.010 Findings; Purpose.
- 19.89.020 Definitions.
- 19.89.030 Permit required.
- 19.89.040 ~~Minimum duration.~~ Reserved
- 19.89.050 Where permitted.
- 19.89.060 Exceptions.
- 19.89.070 Permit application and renewal; Approval standards.
- 19.89.080 Standards for operation.
- 19.89.090 Display of permit.
- 19.89.100 Exterior display of contact information.
- 19.89.110 Business license; Room tax.
- 19.89.120 Occupancy limits.
- 19.89.130 Parking.
- 19.89.140 Maintenance.
- 19.89.150 Binding effect.
- 19.89.160 Inspections.
- 19.89.170 *Reserved*
- 19.89.180 Fees.
- 19.89.190 Violations and penalties.
- 19.89.200 Appeals.

#### 19.89.010 Findings; Purpose.

The city council finds that while short-term rental properties may provide additional lodging opportunities for visitors to the city, such use is, essentially, a commercial use that can have a significant adverse impact on the appearance, tranquility and standard of living in the surrounding neighborhoods and, therefore, merits careful regulation and enforcement. The purpose of this chapter is to regulate short-term rentals in the city in order to safeguard the peace, safety and general welfare of existing neighborhoods by reducing or eliminating detrimental effects caused by noise, vandalism, overcrowding, congestion, traffic, parking and other adverse effects that may accompany the introduction of transient populations in neighborhoods as a result of the operation of short-term rental properties.

#### 19.89.020 Definitions.

A. “*Bedroom*” means a room designated and used primarily for sleeping and rest on a bed. Every bedroom shall have at least one operable emergency escape and rescue opening that complies with all applicable requirements and standards set forth in the city’s building code.

B. “*Director*” means the city’s director of community development, his designee, or any other designee of the city’s manager.

C. “*Short-term rental*” means the rental, letting of rooms or sub-leasing/renting of any structure, dwelling or portion thereof for occupancy, dwelling, lodging or sleeping purposes for ~~at least three but not more~~ fewer than 30 consecutive days in duration.

D. “Short-term rental operator” or “operator” means the owner or a responsible party designated by the owner of a short-term rental property to act for and in behalf of the owner in managing the property. If the operator is not the owner, the actions, undertakings and certifications of the operator shall be binding on the owner. To assure prompt response to complaints and issues concerning a short-term rental property, the operator must:

1. Maintain a call center or other complaint “hotline” that is staffed by a live person (i.e.—mere voicemail or an answering machine is non-compliant with this requirement) and fully responsive 24 hours per day, 365 days per year;

2. Cause a responsible party with decision-making authority to be on-site at the short-term rental property within one hour after the telephonic lodging of a complaint reasonably requiring the operator’s on-site presence, including, without limitation, complaints from neighbors and the city concerning the behavior of occupants or guests of the short-term rental property; and

3. Continuously maintain on file with the city the operator’s current (i) address, (ii) telephone number, and (ii) facsimile number and/or e-mail address, for the city’s use in contacting the operator for purposes of this chapter and Title 5 of this code, which information shall be promptly updated on the city’s records by the operator as such information changes.

E. “Short-term rental property” means real property licensed under this chapter for use for short-term rental purposes.

#### **19.89.030 Permit required.**

All short-term rental properties shall obtain a short-term rental permit from the city prior to operation. A short-term rental permit is a conditional use permit that is in addition to, and not in substitution for, a business license for each short-term rental property required by Title 5 of this code. Notwithstanding anything in this code to the contrary, a short term rental conditional use permit may be approved, approved with conditions, or denied by the director following an administrative hearing, without review or input by the city’s planning commission. A short-term rental permit previously granted as provided in this chapter, and which has not been previously terminated, may be renewed annually upon application by the holder to the director. The holder’s failure to annually renew a short-term rental permit as provided in this chapter is, of itself, grounds for revocation of such conditional use as provided in Section 19.84.140 of this code.

#### **19.89.040 ~~Minimum duration.~~ Reserved**

~~Renting, letting of rooms or sub-leasing/renting of any structure or dwelling or portion thereof for occupancy, dwelling, lodging or sleeping purposes for less than three consecutive calendar days in duration is prohibited in any zone in the city where residential use is a permitted or conditional use unless use of such structure, etc. as a hotel, motel, bed and breakfast or similar use has been specifically authorized as a permitted or conditional use of such parcel.~~

#### **19.89.050 Where permitted.**

A. Short-term rental permits, and renewals thereof, may be approved by the director as conditional uses in the city’s R-2-8, RM (Residential Multi-family), MU (Mixed Use), NC (Neighborhood Commercial), and RO (Residential Office) zoning districts, provided that the proposed short-term rental property in such a zoning district is part of a planned unit development or condominium project that contains at least eight (8) units and fronts on a private street.

B. Short-term rentals are prohibited in the city’s R-1 (single-family), R-2 (medium density) (except as set forth in Subsection A above), RR (rural residential) and F (foothill residential) zoning districts, and any other zoning districts, or portions thereof, where such use is not specifically allowed as a conditional use in Subsection A of this Section 19.89.050; provided,



however, that renewal of a short-term rental permit existing (under UTAH CODE ANN. §10-9a-511 or its successor) as a legal non-conforming use in one of those zoning districts may be approved by the director.

C. Emphasizing, but not limiting, the effect of Subsection 19.89.050(B) above, short-term rentals are strictly prohibited and are illegal in the city's single-family (R-1, RR and F) residential neighborhoods.

#### **19.89.060 Exceptions.**

Rentals of more than 30 consecutive days in duration in any of the city's residential zoning districts are not short-term rentals under this Chapter 19.89 and are not required to obtain a short-term rental permit; provided that:

A. Any rental of more than 30 consecutive days in duration is bona fide and is not a sham designed to avoid classification of such rental as a short term rental under this chapter; and

B. Any rental of the same property for occupancy more than once in any 30-day period shall constitute a short term rental under this chapter.

#### **19.89.070 Permit application and renewal; Approval standards.**

Application for, and issuance of, a short-term rental permit shall proceed as follows:

A. The applicant shall submit an application for a short-term rental permit, or annual renewal thereof, to the city on a city-approved form, paying all applicable fees and complying with all required inspections. Unless sooner revoked, issued permits initially shall expire on the first July 1<sup>st</sup> that follows issuance of the permit by at least five months, with renewal permits expiring each July 1<sup>st</sup> thereafter. The city shall provide to the operator a written renewal notice for each currently-issued short-term rental permit. Failure to renew a short-term rental permit within one month after the deadline specified in such renewal notice shall, of itself, constitute grounds for revocation of such conditional use as provided in Section 19.84.140 of this code. The applicant may be the operator of the proposed short-term rental property or the operator's agent. Both the operator and the applicant (if different from the operator) shall be responsible for compliance with all provisions of this chapter and all other applicable ordinances regulating or applicable to short-term rentals, including, without limitation, the obligation to maintain in effect a business license under Title 5 of this code for the short-term rental property.

B. An initial or renewal application for a short-term rental permit shall include a declaration of compliance with all legal requirements and all other applicable laws, which shall be signed and sworn to by the operator under penalty of perjury. Material misstatements in such declaration by the operator, or elsewhere in the application, shall, of itself, constitute grounds for rejection of the application or revocation of any resulting conditional use (issued in error based on such improper application) as provided in Section 19.84.140 of this code.

C. The application shall be granted unless the director makes one or more of the following findings:

1. The proposed use is not a conditional use under this chapter;
2. The permit should not be granted due to (a) uncured violations of this chapter or of any other applicable law, ordinance, rule or regulation, (b) the occurrence of three or more violations for such short-term rental property during the (typically, 12-month) term of the preceding permit (in which event the operator may not re-apply for any available short-term rental permit or business license for such property for two years from the date of denial), or (c) any other reason for which the short-term rental permit application legally could have been denied; or
3. The city is unable to impose reasonable conditions to mitigate the reasonably anticipated detrimental effects of the proposed use on the surrounding residential properties and neighborhood.

#### **19.89.080 Standards for operation.**

In recognition that short-term rental uses are commercial in nature, and can have a significant adverse impact on the appearance, tranquility and standard of living in surrounding residential neighborhoods, the following special operational standards are mandatory for all short-term rental properties in order to protect the health, safety, welfare and tranquility of the surrounding residential neighborhoods:

A. Each short-term rental operator shall ensure that the occupants and guests of its short-term rental property do not create unreasonable noise or disturbances (judged against, *inter alia*, the nature of the neighborhood where the short-term rental property is located, the time of day of the noise or disturbance, and the level of noise or similar disturbances then emanating from surrounding properties), engage in disorderly conduct, or violate provisions of this code or any other applicable federal, state, county, city or other law, rule or regulation (collectively, “*applicable laws*”) pertaining to noise, disorderly conduct, overcrowding, illegal consumption of alcohol, use of illegal drugs, or otherwise. An operator shall be deemed to have ensured compliance with applicable laws if it:

1. Clearly advises its occupants and guests of such requirements before they take occupancy of the property;

2. Promptly and appropriately responds to complaints concerning the behavior of its occupants and guests as required by this chapter;

3. Promptly evicts from the short-term rental property any who have failed to comply with applicable laws on two or more occasions (“*persistent violations*”) during their period of occupancy of a short-term rental property; and

4. Refuses to allow any persons who have engaged in or been party to persistent violations of applicable laws in their occupancy of a short-term rental property to occupy in the future any short-term rental property under such operator’s ownership or control.

B. Promptly upon notification that the occupants or guests of a short-term rental property have violated Subsection 19.89.080(A) above, the operator shall use its most diligent best efforts to prevent a recurrence of such conduct by those occupants or guests and all future occupants and guests. Such response by the operator to the notification shall occur within one hour after receipt. Failure to timely or properly respond to a complaint regarding any such violation as provided in this subsection shall constitute a violation of this chapter, and shall be grounds for imposition of the penalties specified in Section 19.89.190 below.

C. Each operator shall ensure that the operation of its short-term rental property complies with all other requirements of this code and all other applicable laws.

D. The planning commission and/or the director shall be authorized to prospectively impose additional reasonable conditions, applicable to all short-term rental properties in the city, as necessary to achieve the intent and objectives of this chapter. The city shall endeavor to notify all short-term rental operators of any change in the standards applicable to short-term rentals and short-term rental properties.

E. A short-term rental property shall not contain more than four bedrooms. Any excess bedrooms in a proposed short-term rental property must be converted to, and continuously used for, non-bedroom purposes for so long as such property is used for short-term rental purposes.

F. Short-term rental properties and all related or accessory structures or improvements shall be properly maintained, painted and kept in good repair, and grounds and landscaped areas shall be properly maintained and watered in order that the use in no way detracts from the general appearance of the surrounding neighborhood.

G. Snow shall be removed from sidewalks and driveways as provided by this code.

H. A short-term rental property shall not have any signs visible from the exterior of the premises that advertise the use, other than as required by this chapter.

I. The use of a property in a residential neighborhood for short-term rental purposes shall not change the exterior appearance of the property so that it appears dissimilar from residential properties in the surrounding neighborhood.

J. Outdoor pools, hot tubs, saunas or spas shall not be used between the hours of 10:00 p.m. and 8:00 a.m.

K. Occupants and guests of a short-term rental property shall not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this code or any other applicable federal, state, county, city or other law, rule or regulation (collectively, "*applicable laws*") pertaining to noise, disorderly conduct, overcrowding, illegal consumption of alcohol, use of illegal drugs, or otherwise.

#### **19.89.090 Display of permit.**

Each operator shall affix and maintain a copy of its short-term rental permit on the inside of the main entry door of the short-term rental property to which it applies.

#### **19.89.100 Exterior display of contact information.**

A. Short-term rental operators shall prominently display in a city-approved location on the exterior of the short-term rental property that is visible to the general public and/or the common areas of the surrounding neighborhood, the name and 24-hour per day, 365-days per year telephone number for the short-term rental operator who will take and resolve complaints regarding operation of the short-term rental property and its occupants and guests. Such display also shall include:

1. A telephone number to report violations of this chapter to a city code compliance officer 24 hours per day, 365 days per year;

2. The identifying number of the city-issued business license for the property; and

3. The date of the last city inspection of the property.

The city will prescribe the form of said display of contact and other information. Applicants also shall provide such information to all property owners residing within 300 feet of the short-term rental property. Operators shall provide updated contact information to all recipients, and for all purposes, specified hereunder as such information changes.

B. Operators shall respond (in person, if appropriate) to telephonic complaints within one hour after such complaint is made. Inappropriate and/or non-response to such complaints shall constitute a violation of this chapter, and shall be grounds for imposition of the penalties specified in Section 19.89.190 below.

#### **19.89.110 Business license; Room tax.**

The operator must continuously maintain in force and effect a city business license for the short-term rental property as required in Title 5 of this code, and timely shall pay all taxes and fees relating to such business, including, without limitation, the city's transient room tax.

#### **19.89.120 Occupancy limits.**

A. The city has determined that the preferred means to avoid or minimize safety concerns and the adverse impacts on the surrounding neighborhood attending a large transient population residing in one dwelling is to limit both the occupancy of each short term rental property and the bedrooms available for use at such property. Consequently, occupancy in any short-term rental property shall not exceed the lesser of:

1. Up to two adults (persons aged 18 and above) and two related children (persons under age 18) per bedroom, or

2. Total occupancy (adults and children) of no more than 12 persons in the entire short-term rental property.



B. A short-term rental property may not be artificially divided or partitioned for the purpose of increasing the available occupancy of an otherwise standard dwelling unit such as a house, a condominium unit, or an apartment.

#### **19.89.130 Parking.**

Occupants or guests of any short-term rental property shall not park more vehicles at the short-term rental property than can be legally parked in the garage or carport or on the driveway. Parking of occupant or guest vehicles on the public right-of-way adjoining the short-term rental property, or on areas of the property designated as (or intended for, based on the landscaping of the surrounding neighborhood) yard or lawn, is prohibited. Required parking areas shall be properly maintained and be available for use at all times.

#### **19.89.140 Maintenance.**

All short-term rental properties shall comply with Chapter 9.05 of this code, entitled "Nuisances and Abatement."

#### **19.89.150 Binding effect.**

A. The requirements of this chapter shall be in effect throughout the time that a short-term rental permit is in effect for a property, notwithstanding that such property may be used intermittently by its owner or non-paying guests, based on the city's determinations that, *inter alia*,

1. Given the practical difficulty of determining whether or not the occupants are paying guests, enforcement of this chapter should be based on whether the property is licensed as a short-term rental property rather than the identity of its occupants from time to time;

2. Such a property essentially exists to provide lodging for a transient population (which may include a non-resident owner or its non-resident guests) that may not honor neighborhood mores or exhibit neighborly consideration to the same extent as more permanent residents; and

3. Requiring such compliance may encourage an owner that is not actively engaged in a short-term rental business for a property to terminate the short-term rental permit for such property, thereby mitigating the adverse impact on the character of the surrounding neighborhood posed by the potential future use of such property for short-term rental purposes.

B. A short-term rental permit may be terminated at any time by the owner of a short-term rental property upon submission to the city of the property owner's signed, notarized written notice of such termination.

#### **19.89.160 Inspections.**

A. The city has determined that the preferred method of assuring compliance with this chapter is through regular annual inspections of the short-term rental property at the time of permit application or renewal; through possible additional intermittent regular inspections upon prior notice to the operator during the term of a permit; and through special inspections immediately upon the city's reasonable determination that a violation of this chapter may have occurred. Consequently, the city shall have the right to inspect a short-term rental property for compliance with the requirements of this code. Such an inspection (a "*renewal inspection*") shall occur after application and before issuance of the short-term rental permit or any renewal thereof.

B. Additional inspections ("*intermittent inspections*") may occur during the term of an issued permit upon at least 24 hours' prior telephonic or written (via e-mail, facsimile or personal delivery) notice to the operator (measured from the time of delivery of such notice), using the operator's contact information on file with the city.



C. The city also shall have the right to immediately inspect (a “*violation inspection*”) a short term rental property for compliance with this chapter upon issuance of a citation for violation of this chapter.

D. All inspections under this chapter shall comply with the requirements of Section 2.10.110 (or its successor) of this code.

E. If necessary to gain entry for inspection purposes, the city may obtain an administrative search warrant.

F. Failure by an owner, operator, occupant or guest to allow inspection of a short-term rental property as provided in this section shall, of itself, constitute grounds for

1. Revocation of an issued short-term rental permit for such property as provided in Section 19.84.140 of this code, in the case of an intermittent inspection or a violation inspection, or

2. Rejection of an application for renewal of a short-term rental permit, in the case of a renewal inspection.

#### **19.89.170 (Reserved).**

#### **19.89.180 Fees.**

The operator of a short-term rental property shall pay a yearly business license fee for the short-term rental property under Title 5 of this code. An applicant for a short-term rental permit also shall pay

A. A one-time application fee for conditional uses, as specified in the consolidated fee schedule; and

B. An annual permit renewal fee as specified in the consolidated fee schedule.

#### **19.89.190 Violations and penalties.**

~~A.~~ Failure to comply with this chapter shall constitute a violation of this code for which a citation may be issued, enforcement may be pursued, and penalties may be imposed by the city. ~~Each day that a violation occurs or continues is a separate violation. Without limiting any other penalties or remedies available under this code or other applicable law:~~

1. Operation of a property in the city for short-term rental purposes without a short-term rental permit shall be a violation of this title punishable as a Class “C” misdemeanor upon conviction as provided in UTAH CODE ANN. Title 76, Chapter 3, as amended. Each day that any violation continues after notification by the city that such violation exists shall be considered a separate offense for purposes of the applicable penalties and remedies.

~~B2.~~ Operation of a property in the city for short-term rental purposes without a permit or a business license shall be a violation of Title 5 of this code and shall be punishable as provided in Title 5 and otherwise in this code, including punishment as a misdemeanor as provided in Section 1.08.020 of this code, with each day of unlicensed operation constituting, Each day that any violation continues after notification by the city that such violation exists shall be considered a separate offense for purposes of the applicable penalties and remedies.

~~C3.~~ For noncompliance with this chapter of a permitted and licensed short-term rental property, the issuing officer shall issue a written citation to the operator, specifying the violation and the penalty to be imposed for such violation. Except as otherwise provided in this chapter, the penalty for violation of this chapter shall be as follows:

(a) 1. For the first violation within any 12 month period, the penalty shall be \$250;

(b) 2. For a second violation within any 12 month period, the penalty shall be an additional \$500; and;

(c) 3. For a third violation within any 12 month period, the penalty shall be an additional \$1,000 and revocation of the short term rental permit and the business license for the subject

property; provided, however, that the operator may not re-apply for any available short-term rental permit or business license for such property for two years from the date of such revocation.

**19.89.200 Appeals.**

An operator desiring to contest a citation must appeal the citation to the city's appeal authority in accordance with Chapter 19.92 of this code.